

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.01.2017

CORAM:

THE HONOURABLE MR.JUSTICE RAJIV SHAKDHER

W.P.NO.39371 OF 2016

AND WMP NOS.33688, 34126 AND 36859 OF 2016

AND 1747 OF 2017

E.Prem Kumar

.. Petitioner

Vs.

- 1.The Secretary
Government of India
Ministry of Corporate Affairs
5th Floor, A-Wing, Shastri Bhavan,
Dr.Rajendra Prasad Road,
New Delhi - 110 001.
- 2.The Director
Serious Fraud Investigation Office
2nd Floor, Paryavaran Bhawan,
CGO Complex, Lodhi Road,
New Delhi - 110 003.
- 3.The Additional Director
Serious Fraud Investigation Office
Regional Office, 4th Floor,
Thattinarm Village,
Bandiaguda Hayathnagar Mandal,
RR District, Hyderabad - 500 068.
Telungana.
- 4.The Senior Assistant Director (Investigations)
Inspector & Investigation Officer
Serious Fraud Investigation Office
Corporate Bhavan, Ground Floor,
No.29, Rajaji Salai,
Chennai - 600 001.
- 5.The Regional Director
Ministry of Corporate Affairs
Shastri Bhavan,
Haddows Road,
Chennai - 600 006.

6.The Registrar of Companies
Tamil Nadu, Andaman & Nicobar Islands
Shastri Bhavan, 2nd Floor,
Haddows Road,
Chennai - 600 006.

7.The Secretary
Church of South India Trust Association
No.5, Whites Road, Royapettah,
Chennai - 600 014.

8.The Secretary
CSI SYNOD
No.5, Whites Road,
Royapettah,
Chennai - 600 014.

9.The Secretary
CSI Coimbatore Diocese (Sub-unit of CSI TA)
No.256, Race Course,
Coimbatore - 641 018.

10.A.Dilip Kumar
(R10 - impleaded as per order dated
15.11.2016 in WMP No.34231 of 2016
in W.P.No.39371 of 2016) .. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India for the issuance of Writ of Mandamus, directing the respondents 1 to 4 to stop the election of the 9th respondent CSI, Coimbatore Diocesan Council between 14.11.2016 and 16.11.2016 till the completion of the investigation process by the 3 and 4 respondents.

For Petitioner : Mr.M.Ravi

For Respondents
1 to 6 : Mr.D.Simon
Central Government Standing Counsel

For Respondent - 7 : Mr.D.Selvaraj
for M/s.D.Prabhu Mukunt Arunkumar

For Respondent - 8 : Mr.Adrian D. Rozario

For Respondent - 9 : Mr.A.R.L. Sundaresan
Senior Counsel
for Mr.G.Anbaya Chozhan

For Respondent - 10 : Mr.A.Immanuel

O R D E R

1. In this writ petition, the following relief has been sought for by the petitioner:

"For the reasons stated in the accompanying affidavit it is respectfully prayed that this Hon'ble Court may be pleased to issue a Writ of Mandamus, or any other writ in the nature of a writ directing to the respondents 1 to 4 to stop the election of the 9th respondent CSI, Coimbatore Diocesan Council between 14.11.2016 and 16.11.2016 till the completion of the investigation process by the 3 and 4 respondents and pass such other orders it may be deemed fit and thus render justice."

2. Apart from the fact, that I have grave doubts as to whether a Mandamus can be issued to direct the respondent Nos.1 to 4 to injunct elections that may be held by respondent No.9, the writ petition has been rendered infructuous.

2.1. I may only indicate that respondent Nos.1 to 4 are official respondents, who have already triggered investigations against respondent No.7.

2.2. I may also record that it is a common ground, that a writ petition bearing No.38841 of 2016 has been filed by the Medak Diocese of Church of South India Trust Association, Secundarabad, Telengana, in the High Court of Andhra Pradesh and Telengana, whereby, vide order dated 10.11.2016, the investigations commenced by the respondent Nos.1 and 4, i.e., the Serious Fraud Investigation Office have been stayed.

3. To be noted, the Serious Fraud Investigation Office had commenced investigation against respondent No.7 pursuant to order dated 10.06.2016, passed by the Government of India, Ministry of Corporate Affairs, New Delhi.

3.1. It may also be pertinent to note that in a proceeding commenced before the National Company Law Tribunal (NCLT), Late Justice K.Sampath, a former Judge of this Court was appointed as a Chairperson to look after the affairs of the Church of South India Trust Association i.e., the respondent No.7. The said order appointing Late Justice K.Sampath as the Chairperson was passed by the NCLT on 18.11.2016. This order, evidently, has also been challenged via a revision petition, which is pending adjudication before this Court.

3.2. The said revision petition is numbered as C.R.P.No.3739 of 2016. In the said proceedings, this Court vide order dated 28.11.2016 had passed an interim order, which, inter-alia, stayed the appointment of the Chairperson, subject to the respondent No.7 and its Management not assigning, alienating or encumbering its assets in any manner, whatsoever, till further orders of the Court.

4. In so far as this writ petition is concerned, in the first instance, this Court vide order dated 11.11.2016, had injuncted the respondent No.9 from conducting elections to the CSI, Coimbatore Diocesan Council, which were to be held between 14.11.2016 and 16.11.2016. In a subsequent proceedings, i.e., proceedings dated 29.11.2016, the facts set out above were noticed by this Court, that is, facts pertaining to the pendency of the proceedings in the High Court of Andhra Pradesh and Telengana and those, which arose out of the order passed by the NCLT. This Court, on that date i.e., 29.11.2016, had therefore directed the parties to take recourse to appropriate proceedings, as multiple actions were pending in different forums.

5. Counsel for the petitioner informs me that a transfer petition has been filed in the Supreme Court. I am informed that petition has not been listed as yet.

6. On the other hand, applications for vacating interim injunction have been filed by the respondent Nos.9, 7 and 8. These applications are numbered as: WMP Nos.34126 and 36859 of 2016.

7. As indicated above, this writ petition has been rendered infructuous, as the dates for holding elections, have already passed. Therefore, in case, elections are again notified for the CSI Coimbatore Diocese, a fresh cause of action would arise, at which stage, respective contentions of the parties if otherwise sustainable in law could be examined.

7.1. The writ petition is, accordingly, dismissed as been rendered infructuous.

8. Interim orders passed, will be obviously stand dissolved in view of the writ petition having been dismissed. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-

Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

To

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Government of India
Ministry of Corporate Affairs
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+5 cc's to M/s.S.Bharathiraja,advocate,sr.4850

+5 cc's to M/s.Ravi,advocate,sr.4853

+1 cc to M/s.A.Immanuel,advocate,sr.4956

+1 cc to M/s.D.Prabhu mukunth,advocate,sr.5103

+1 cc to M/s.Advian, advocate,sr.5170.

nri(co)
krd 31/1

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